

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY  D.C.

05 OCT 24 AM 7:04

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

ERIC J. FAIR,

Petitioner,

vs.

RICKY BELL,

Respondent.

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No. 05-2074-Ma/P

ORDER DISMISSING SECOND OR SUCCESSIVE PETITION

Petitioner Eric J. Fair, Tennessee Department of Correction prisoner number 229661, who is currently incarcerated at the Whiteville Correctional Facility in Whiteville, Tennessee, filed a pro se petition pursuant to 28 U.S.C. § 2254 on January 28, 2005. Fair paid the habeas filing fee on February 1, 2005. The Court issued an order on June 15, 2005 that inter alia, dismissed the petition as time barred and denied a certificate of appealability. Judgment was entered on June 24, 2005. On July 15, 2005, Fair filed a notice of appeal, a motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b), and a motion seeking to hold his appeal in abeyance pending a decision on his Rule 60(b) motion. The Court issued an order on August 29, 2005 that denied

the motions pursuant to Fed R. Civ. P. 60(b) and to hold the appeal in abeyance.

On July 20, 2005, Fair filed a document, entitled "Amended Petition for the Great Writ of Habeas Corpus Demanding to be Immediately Release[d] from Custody." Pursuant to 28 U.S.C. § 2244(b), "[a] claim presented in a second or successive habeas corpus application that was presented in a prior application shall be dismissed." Each of the issues raised in Fair's July 20, 2005 filing was raised in his original § 2254 petition. Accordingly, Fair's second or successive petition, which was filed on July 20, 2005, is DISMISSED.

The Clerk shall transmit a copy of this order to the United States Court of Appeals for the Sixth Circuit.

IT IS SO ORDERED this 21st day of October, 2005.



SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 14 in case 2:05-CV-02074 was distributed by fax, mail, or direct printing on October 25, 2005 to the parties listed.

Eric Fair
RIVERBEND MAXIMUM SECURITY INSTITUTION
229661
7475 Cockrill Bend Road
Nashville, TN 37209

Honorable Samuel Mays
US DISTRICT COURT